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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,050	02/26/2002	Stephen Worth Hendrix	8439M	3129

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THE PROCTER & GAMBLE COMPANY
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EXAMINER

SALVATORE, LYNDA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/083,050	Applicant(s) HENDRIX ET AL.	
	Examiner Lynda M Salvatore	Art Unit 1771	<i>eb</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 16 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
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| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____</p> |
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DETAILED ACTION***Response to Amendment***

1. Applicant's amendments and accompanying remarks filed 02/25/04 have been fully considered and entered. The specification abstract and claims 1 and 8 have been amended as requested. Said amendments are found sufficient to overcome the objections set forth in sections 7 and 8 of the last Office Action. As such, these objections are hereby withdrawn. Applicant's amendments have been found persuasive to overcome the rejection of claims 1-4, 6-9, and 11 rejected under 35 U.S.C. 102 (b) as being anticipated by Bissett et al., US 5,821,237 and the 35 U.S.C. 103(a) which relied upon the 35 U.S.C. 102 (b) rejections as set forth in sections 11-13 of the last Office Action. As such, these rejections are hereby withdrawn. However, despite this advance in prosecution, Applicant's amendments are not found to patently distinguish the claims over the prior art of record and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

Election/Restrictions

2. Applicant's election with traverse filed 02/25/04 is acknowledged. The traversal is on the ground(s) that since the inventions of Group I and III are of similar subject matter there would be no serious burden to the Examiner to search and examine these two groups together. In addition, Applicant asserts that the invention of Group II is not a method for making the pre-moistened wet wipe, but rather a method for improving the softness and feel and/or reducing the tackiness of a pre-moistened wet wipe. Applicant's arguments are found persuasive with regard to the restriction between Groups I and III. As such, claims 13-15 and 18-20 will be examined with Group I, claims 1-12. With regard to Applicant's argument that the invention of Group II is

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not a method of making the pre-moistened wet wipe, the Examiner disagrees. The claims of Group II clearly recite with method limitation of wetting the substrate with a lotion such that said substrate releasably carries said lotion. Such, method limitations would require a search that is not coextensive with the search of Group I. Therefore, the restriction of Group II, is maintained. The new restriction is as follows.

- I. Claims 1-12, 13-15, and 18-20 drawn to a pre-moistened wet wipe and container classified in class 221 and 442, subclass various and 59+ respectively.
- II. Claims 16 and 17, drawn to method for improving the hand feel of a pre-moistened wet wipe classified in class 427, subclass various.

The requirement is still deemed proper and is therefore made FINAL.

3. Claims 16 and 17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected method and apparatus inventions there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement filed 02/25/04.

Claim Rejections - 35 USC § 103

- 4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
- 5. Claims 1-4, 6-9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bissett et al., US 5,821,237 in view of Rourke et al., US 6,207,596.

Applicant amended claim 1 to recite a “non-woven substrate is either an air-laid non-woven substrate or a hydro-entangled non-woven substrate”, and argues that since the Bissett et

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al., reference fails to teach these limitations said reference does not qualify as 102 (b) prior art.

The Examiner agrees, however, a 103 (a) obviousness type rejection exists.

The patent issued to Bissett et al., teaches a skin improving composition comprising at least one cyclic polyanionic polyols, at least one sulfhydryl compound, and at least one zwitterionic surfactant (Abstract). Bissett et al., teaches cyclic polyanionic polyols or derivatives having the structure in which n is 1 or 2 and X is OSO_3^- or OPO_3^{2-} , all non OH X 's are the same and the cation is H^+ , Na^+ , K^+ , or NH_4^+ (Column 6, 15-28). Bissett et al., also teaches neutralizing the compound to a pH ranging between 3 and 8 (Column 6, 31-34). The polyanionic polyol include 1, 2, 3, 4, 5, 6, cyclohexanehexaphosphoric acid (scyllo, myo or other inositol hexakis phosphoric acid derivatives (Column 6, 34- Column 8, 49). The most preferred cyclic polyanionic polyol is myo-inositol hexakis phosphoric acid (Column 8, 49-51). The composition further comprises a zwitterionic surfactant such as long chain betaines and sultaines (Column 10, 41-45). Other surfactants such as anionic, nonionic, amphoteric and ampholytic are also suitable (Column 14, 1-6). Bissett et al., further teaches the inclusion of an acceptable aqueous or organic solvent such as water, propylene glycol, or polyethylene glycol (Column 12, 25-50). With regard to claim 3, the composition generally comprises about .01 % to about 10 % of the polyanionic polyol (Column 12, 13-15). With regard to claim 9, other additives may include preservatives such as zinc (Column 14, 48-61). Bissett et al., teaches that the compositions are useful as cleaners and may be formulated into lotions and creams (Column 13, 40-67). Furthermore, delivery methods include the application of said formulated composition onto the surface of a cleansing pad comprising one or more layers of a non-woven fabric (Column 22, 50-61).

Bissett et al., fails to explicitly teach an air-laid or hydro-entangled non-woven substrate, however, such methods of manufacturing non-woven substrates suitable for use in the presently claimed capacity are well known in the art as evidenced by Rourke et al. Specifically, Rourke et al., teaches a pre-moistened wet wipe comprising a non-woven substrate (Column 1, 5-25). Rourke et al., teaches forming the non-woven substrates using conventionally known manufacturing techniques such as air-laying and hydro-entangling (Column 3, 45-50). Therefore, motivated by the desire to produce a non-woven substrate suitable for use as a disposable wet wipe, it would have been obvious to one having ordinary skill in the art to form the non-woven substrate of Bissett et al., using the conventionally known manufacturing techniques taught by Rourke et al. Motivated by the expectation of being able to successfully practice the invention disclosed by Bissett et al.

With regard to claim 12, the combination of prior art does not explicitly teach a method of cleaning a surface with the cleansing pad, however, it is the position of the Examiner that it would be obvious to contact a surface with a cleansing pad, since such is the natural application of the articles described by Bissett et al., and Rourke et al.

6. Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bissett et al., US 5,821,237 in view of Rourke et al., US 6,207,596 as applied to claim 1 above, and further in view of Luu et al., US 5,871,763.

The combination of prior art fails to teach a specific non-ionic surfactant but does disclose that surfactants are well known to those skilled in detergency art and are generally selected for their detergency action, mildness to skin, and compatibility with primary additives (Bisset et al., Column 14, 6-10). To that end, Luu et al., teaches treating a substrate with a lotion,

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comprising an emollient, a retention/release agent, and a surfactant (Abstract). Luu et al., specifically teaches selecting a surfactant with a hydrophilic lipophilic balance of less than 8 such as ethoxylated methyl glucoside (Column 9, 1-21). Therefore, motivated by the desire to achieve a balance of properties in the formulated lotion it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the anionic surfactant taught by Luu et al., in the composition of Bissett et al.

With regard to claim 10, the combination of prior art fails to teach the amount applied to the non-woven substrate however, Luu et al., teaches treating the cellulosic substrate with the lotion composition in an amount ranging from .1% to 25% by weight of the dry substrate (Column 13, 35-45). Therefore, motivated to provide a pre-moistened wet wipe it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the teachings of Luu et al., when applying the liquid formulation to the non-woven substrate of Bissett et al., and Rourke et al.

7. Claims 13-15 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bissett et al., US 5,821,237 in view of Rourke et al., US 6,207,596 as applied to claim 1 above, and further in view of Brennan et al., US 6,361,784.

The combination of prior art fails to the container limitations set forth, however, the patent issued to Brennan et al., teaches dispensing pre-moistened wet wipes from a tub (Abstract and Column 3,28-30). Brennan et al., specifically defines pre-moistened wet wipe as a substrate which is moistened prior to packaging in a moisture impervious container or wrapper (Column 3, 55-60). With regard to claim 15, the Brennan et al., does not specifically teach providing a set of instructions but it is the position of the Examiner that providing a set instructions with or on the

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container itself would be obvious to one having ordinary skill in the art. With regard to claim 20, Brennan et al., specifically teaches a “pop up” dispensing container wherein the wipe is Z-folded to enable the stack of wipes to be interleaved with overlapping portions (Column 3, 30-40). With regard to claim 19, Brennan et al., does not specifically teach an S-shaped aperture opening for dispensing the pre-moistened wet wipe however it is the position of the Examiner that said limitation is not germane to the final product combination of a pre-moistened wet wipe and container. Since the prior art meets the chemical and structural limitations of providing a pre-moistened wet wipe in a container the burden is shifted to Applicant to evidence that having an S-shaped aperture opening is a critical feature to the container apparatus. Moreover, it would be obvious to one having ordinary skill in the art to provide a “pop up” dispensing container with a suitable opening for proper dispensing.

Therefore, motivated to provide a convenient way to employ pre-moistened wet wipes, it would have been obvious to one having ordinary skill in the art at the time the invention was made to package the wet wipes taught by the combination of Bissett et al., in view of Rourke et al., in the “pop up” dispensing container taught by Brennan et al.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1482. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 6, 2004

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